THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.7398 of 2006

Dt.17.4.2006

Between:

Y.Savithri Devi … Petitioner

And

The Commissioner, Municipal

Corporation, Kakinada, East Godavari

District and others

…Respondents

ORDER:

Petitioner seeks writ of mandamus directing the respondents not to enter and demolish any part of the petitioners premises bearing No.13-1-56 in Main Road, Kakinada, without following the statutory procedure and paying compensation as required by law as illegal and arbitrary.

The petitioner is the owner of the premises bearing No.13-1-56, situated in the Main Road, Kakinada, to an extent of 1705 sq.yards having purchased the same through registered sale deed document No.988/1949 dated 30.3.1949. While so, the

respondent Corporation has taken up road widening programme and intends to acquire 10 feet wide strip of land of the petitioner and demolish the structure thereon. It is stated that the building is an old building and it is not unlikely that the demolition for 10 feet would render the entire building unsafe and likely to collapse.

Heard the learned counsel for the petitioner as well as the standing counsel on behalf of the respondents.

The learned counsel for the petitioner submits that the respondents without issuing any notice and without initiating any proceedings and without paying any compensation trying to demolish the building of the petitioner for widening of road. It is also stated that the employees of the first respondent Corporation entered the premises on 5.4.2006 and marked out 10 feet width area proposed for demolition.

The learned counsel for the petitioner further submits that the action of the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894 is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the property of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition act, 1894. No costs.

V.ESWARAIAH, J.

April 17, 2006.

kpr